OLR Bill Analysis

HB 5358

AN ACT PROHIBITING STATE CONTRACTS WITH ENTITIES MAKING CERTAIN INVESTMENTS IN IRAN.

SUMMARY:

This bill prohibits state and quasi-public agencies from entering into, renewing, or amending a large state contract with anyone who (1) fails to certify that he or she has not invested $20 million or more in Iran's energy sector or (2) certifies that he or she has made, renewed, or increased such an investment (see COMMENT). The prohibition applies to investments made on and after October 1, 2013 and to prior investments increased or renewed on and after that date.

Under the bill, bidders and proposers must submit the certification before submitting a bid or proposal for a large state contract. The certification must be sworn as true to the person's best knowledge and belief, subject to the penalties for false statement. Agencies must include notice of these requirements in bid specifications or requests for proposals (RFP) for such contracts. Iran's energy sector, as defined by federal law, includes activities to develop petroleum or natural gas resources or nuclear power in Iran. A large state contract is one valued at more than $ 500,000 in a calendar or fiscal year for building construction, procurement, or service contracts; leases; or licensing agreements.

The bill exempts from the penalty for false statement affiants who make a good faith effort to verify whether they have made a prohibited investment. It specifies that a good faith effort includes determining that the person does not appear on a list, published by the California Department of General Services, of people who have made prohibited investments.

The bill does not apply to any contract of the state treasurer in her

role as trustee of the Connecticut retirement plans and trust funds. By law, the treasurer must divest and not invest further in any Iranian-issued security or investment. She may divest, or decide against future investments of, state funds in any company doing business in Iran after various considerations.

Lastly, the bill requires the secretary of the state to notify the U.S. attorney general of the bill's requirements within 30 days of its passage, as required by federal law.

EFFECTIVE DATE: October 1, 2013, except that the provision requiring notification by the secretary is effective upon passage.

COMMENT

Possible Conflict With Federal Law

The 2010 federal Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) (P.L. 111-195) allows state and local governments to divest or prohibit the investment of assets in certain entities that do business with or invest in Iran's energy sector. The bill does not directly require the state to determine that an entity has made prohibited investments (as CISADA requires), but rather bars contracting with entities who fail to certify that they have not made prohibited investments (or who certify that they have made such investments).

Additionally, CISADA requires state and local governments to give such entities 90 days' written notice before divesting or prohibiting the investment of assets. The bill requires no such notice, other than that which accompanies the bid specifications or RFP.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable
Yea 14 Nay 0 (04/05/2013)